

The opinion in support of the decision being entered today is not binding precedent of the Board.

Filed by: Trial Section Merits Panel  
Mail Stop Interference  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Tel: 703-308-9797  
Fax: 703-305-0942

Paper ~~36~~ 43  
Filed  
11 March 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

**LEVER BROTHERS CO.**  
Junior Party,  
(Patent 6,051,545),

v.

**HENKEL KGAA**  
Senior Party,  
(Application 09/380,739).

**FAXED**

**MAR 11 2004**

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Patent Interference No. 105,143

Before LANE, MEDLEY, and TIERNEY, Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

**JUDGMENT – RULE 662**

**A. Introduction**

Lever amended its patented claims by filing a reissue application 10/740,392. Lever argued, without supporting evidence, that there was no interference-in-fact between its reissue claims and Henkel's involved claims. The administrative patent judge (APJ) initially designated to handle the interference was of the opinion that the Lever reissue claims interfered with the

involved Henkel claims (Paper 25 at 4). Accordingly, the APJ redeclared the interference to add the reissue claims as corresponding to the count. The Lever patent claims remained involved in the interference.

On 9 March 2004, a conference call was held involving the administrative patent judge (APJ) designated to handle the interference, and lead counsel for the respective parties. Per the discussion, counsel for the respective parties agreed with the APJ's determination that judgment be entered against Lever's involved patent. The interference will be redeclared in a separate concurring paper to reflect the judgment against Lever's patent.

**B. Judgment**

It is

**ORDERED** that judgment as to the subject matter of the count is herein entered against junior party LEVER BROTHERS CO. with respect to its involved patent;

**FURTHER ORDERED** junior party LEVER BROTHERS CO. is not entitled to its U.S. patent 6,051,545 claims 1-15 which correspond to the count;


**FURTHER ORDERED** that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and 37 CFR § 1.666; and

**FURTHER ORDERED** that a copy of this judgment be filed in the respective involved application or patent of the parties.

  
SALLY GARDNER LANE  
Administrative Patent Judge

  
SALLY C. MEDLEY  
Administrative Patent Judge

) BOARD OF PATENT  
) APPEALS AND  
) INTERFERENCES

  
MICHAEL P. TIERNEY  
Administrative Patent Judge

cc (via facsimile):

Counsel for LEVER BROTHERS CO.:

Victor N. Balancia, Esq.  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, DC 20004

Fax: 202-739-3001

Counsel for HENKEL KGAA:

Rudolf E. Hutz, Esq.  
CONNOLLY BOVE LODGE & HUTZ LLP  
The Nemours Building  
1007 North Orange Street  
Wilmington, DE 19801

Fax: 302-658-5614